

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

RAMON ARAGON, *et al.*,

Defendants.

69cv07941 BB-ACE

RIO CHAMA STREAM SYSTEM
Section 1: Mainstream

RANCHITOS DITCH

Subfiles: 530, 531, 532, 533 and 534

**MOTION TO SUBSTITUTE AND JOIN PARTIES
AND TO VACATE INDIVIDUAL SUBFILE ORDERS**

COMES NOW the Plaintiff State of New Mexico *ex rel.* State Engineer (State) and requests the Court to substitute parties, to join additional parties defendant, and to vacate individual subfile orders entered in connection with the Ranchitos (formerly incorrectly Suazo) Ditch. This motion is intended to comply with the Order entered January 27, 2005 (Doc. No. 7754). In support of the motion Plaintiff states as follows:

1. By Order entered January 27, 2005, the Court ordered the State to file and serve upon the current water rights owners of tracts served by the Ranchitos Ditch a motion to amend the Source of Water and Point of Diversion no later than February 21, 2005.

2. Individual subfile orders entered in connection with tracts that are irrigated by the Ranchitos Ditch are as follows:

<u>Subfile</u>	<u>Map/Tract</u>	<u>Adjudicated owner</u>	<u>Date filed</u>	<u>Doc. No.</u>
530	4.1	Gus Martinez	9/10/70	1646
530	4.1-A	Gus Martinez	9/10/70	1646

530	4.1-B	Gus Martinez	9/10/70	1646
530	4.1-C	Gus Martinez	9/10/70	1646
531	4.2	Juan Lopez	9/10/70	1646
532	4.3	Enrique Garcia	9/10/70	1646
533	4.4	Anna Maria Madrid	4/29/70	1355
534	4.5	Mrs. S. Duran	4/29/70	1357

3. The individual subfile orders listed in paragraph 2 above incorrectly state that the above listed tracts are irrigated by the Suazo Ditch. The subfile orders contain additional incorrect information as well.

4. The Source of Water and Point of Diversion for tracts irrigated by the Ranchitos Ditch is as follows:

Source of Water: La Cienega de Don Simon, a tributary of the Rio Chama

Point of Diversion: X = 473,869 Y = 1,890,256

5. The current owners of the tracts listed in paragraph 2 above are as follows:

<u>Current owner</u>	<u>Map/Tract(s)</u>
Frances A. Martinez	4.1, 4.1-B, 4.1-C & 4.4
Owen and Yuronna Aubrey	4.1-A & 4.3
Bobby Lopez	4.2
Juan Duran	4.5

6. The current owners of the tracts listed in paragraph 5 should be substituted for the adjudicated owners of the those tracts under Fed. R. Civ. Pro. 25(C). The individual subfile orders entered in connection with those tracts should be vacated.

7. The State intends to conduct field work for tracts of land irrigated by the Ranchitos Ditch (including tracts of land not listed in paragraph 2 above) during the summer of 2005 and to prepare new proposed orders for all tracts irrigated by the Ranchitos Ditch

8. In addition to the persons listed in paragraph 5 above, the following persons may be

using water from the Ranchitos Ditch to irrigate lands owned by them:

Daniel Martinez PO Box 166, Abiquiu NM 87510
Joseph Archuleta PO Box 965, Espanola NM 87532

9. Counsel for the Ranchitos Ditch, Fred J. Waltz, supports the granting of this motion.

WHEREFORE the Plaintiff State of New Mexico requests the Court to enter an Order that substitutes the persons listed in paragraph 5 above (current owners) for the adjudicated owners listed in paragraph 2, that vacates the individual subfile orders listed in paragraph 2 with respect to the tracts listed, and that joins the persons listed in paragraph 8 as additional parties defendant.

Respectfully submitted,

/s/ Ed Newville
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the above Motion to Substitute and Join Parties and to Vacate Individual Consent Orders was mailed to following persons on February 22, 2005.

/s/ Ed Newville
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